

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

IN RE:	§	
	§	
WC 8120 RESEARCH LP	§	CASE NO. 20-11106-tmd
	§	(Chapter 11)
Debtor.	§	

BANCORPSOUTH BANK’S MOTION TO COMPEL

THIS PLEADING REQUESTS RELIEF THAT MAY BE ADVERSE TO YOUR INTERESTS.

IF NO TIMELY RESPONSE IS FILED WITHIN 21 DAYS FROM THE DATE OF SERVICE, THE RELIEF REQUESTED HEREIN MAY BE GRANTED WITHOUT A HEARING BEING HELD.

A TIMELY FILED RESPONSE IS NECESSARY FOR A HEARING TO BE HELD. REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

To the Honorable Tony M. Davis, United States Bankruptcy Judge:

COMES NOW, BancorpSouth Bank (“**BXS**”) and files this its Motion to Compel and would respectfully show as follows:

1. WC 8120 Research, LP (the “**Debtor**”) filed its petition for Chapter 11 relief on October 6, 2020.
2. The Debtor is a single asset real estate case as the Debtor admitted in its voluntary petition. *See* WC 8120 Research, LP’s Voluntary Petition [Docket No. 1].
3. The Debtor filed its Schedules and Statement of Financial Affairs on November 5, 2020.
4. BXS is a creditor of the Debtor and has a secured and validly perfected claim on the Debtor’s single asset, the shopping center located at 8120 Research Blvd., Austin, Travis County, Texas (the “**Property**”). *See* BXS’s Proof of Claim [Claim No. 3].

5. On October 23, 2020, BXS sent to Mr. Mark Ralston, proposed counsel for the Debtor, a Notice of Rule 2004 Examination by Written Questions and Subpoena Duces Tecum (the “**2004 Notice**”). A true and correct copy of the 2004 Notice is attached hereto as **Exhibit A**. Pursuant to the 2004 Notice, responsive documents were due on December 3, 2020.

6. On December 2, 2020, Mr. Ralston sent an email to the undersigned counsel requesting an extension until December 10, 2020 to provide documents and responses to the 2004 Notice. A true and correct copy of the email is attached hereto as **Exhibit B**. As of the date of the filing of this Motion, the Debtor has not provided documents and responses to the 2004 Notice to BXS.

7. In addition, on two occasions at the initial 341 Creditors Meeting and the continued 341 Creditors Meeting the undersigned counsel requested the Debtor provide an accounting of the rents and rental payments the Debtor received from tenants of the Property from March 1, 2020 to July 1, 2020. On December 22, 2020, Mr. Ralston produced a statement of cash flow for the period March 2020–July 2020. During that time period the Debtor collected \$262,124.60 in rental income and paid the vast majority out to the Debtor’s insiders. No one from the Debtor, during the three creditors meetings lasting an aggregate of over five (5) hours, has ever been able to advise why these insiders were paid.

8. The Debtor has continually failed and refused to produce documents or provided historical financial information. The disclosure of documents and responses from the Debtor should not be this difficult and runs counter to the intent of the bankruptcy process. As Judge Bohm of the Bankruptcy Court for the Southern District of Texas stated in his opinion from *In re Hight*, “[t]he three most important words in bankruptcy are: disclose, disclose, disclose.” 393 B.R.

484, 507 (Bankr. S.D. Tex. 2008) (*quoting In re Bossart*, 2007 WL 4561300, at *10 (Bankr. S.D. Tex. Dec. 21, 2007)).

WHEREFORE, PREMISES CONSIDERED, BancorpSouth Bank requests that the Court grant its Motion to Compel, require WC 8120 Research, LP to provide documents and responses to the 2004 Notice within three (3) business days of the entry of the order, and grant BancorpSouth Bank such other and further relief as is just.

Respectfully submitted,

HIRSCH & WESTHEIMER, P.C

By: /s/ Michael J. Durrschmidt

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ATTORNEYS FOR BANCORPSOUTH BANK

CERTIFICATE OF CONFERENCE

I hereby certify that on December 31, 2020 I sent an email to Debtor's proposed counsel regarding the document production requests and this Motion to Compel but did not receive a response.

/s/ Michael J. Durrschmidt

Michael J. Durrschmidt

CERTIFICATE OF SERVICE

I hereby certify that on December 31, 2020, a copy of the foregoing Motion to Compel was served via first class mail, postage prepaid, and/or via the Clerk of the Court through the ECF system on the following:

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/s Brian A. Buescher

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